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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,082	04/06/2001	Robert Michael Chavez		2293

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EXAMINER


STIMPAK, JOHNNA

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/807,082	CHAVEZ, ROBERT MICHAEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Johnna R Stimpak	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The following is a final office action upon examination of application number 09/807,082. Claims 1-34 are pending and have been examined on the merits discussed below.

#### ***Response to Arguments***

2. Applicant's arguments, see amendment, filed March 8, 2004, with respect to objections to claims 13, 21 and 29 have been fully considered and are persuasive. The objections of claims 13, 21 and 29 have been withdrawn.

3. Applicant's arguments, see amendment, filed March 8, 2004, with respect to 35 USC 112, 2<sup>nd</sup> paragraph, have been fully considered and are persuasive. The rejections of claims 16 and 30 have been withdrawn.

4. The declaration filed on March 8, 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Challenger reference.

5. The evidence submitted is insufficient to establish applicant's alleged actual reduction to practice of the invention in this country or a NAFTA or WTO member country after the effective date of the Challenger reference. The letter of January 1998 was composed after the filing date of Challenger (Dec. 30, 1997) and therefore is not considered. The Initiative included in the declaration is not dated. The only date mentioned is in a fax transmission sheet referring to a "1998 Initiative". While it is not clear if this fax transmission sheet is indeed referring to the initiative in the declaration, if it is, a "1998 Initiative" is not sufficient in predating the Challenger reference of December, 1997.

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6. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Challenger reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The letter of January 1998 was composed after the filing date of Challenger (Dec. 30, 1997) and therefore is not considered. The Initiative included in the declaration is not dated. The only date mentioned is in a fax transmission sheet referring to a “1998 Initiative”. While it is not clear if this fax transmission sheet is indeed referring to the initiative in the declaration, if it is, a “1998 Initiative” is not sufficient in predating the Challenger reference of December, 1997.

7. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Challenger reference to either a constructive reduction to practice or an actual reduction to practice. The letter of January 1998 was composed after the filing date of Challenger (Dec. 30, 1997) and therefore is not considered. The Initiative included in the declaration is not dated. The only date mentioned is in a fax transmission sheet referring to a “1998 Initiative”. While it is not clear if this fax transmission sheet is indeed referring to the initiative in the declaration, if it is, a “1998 Initiative” is not sufficient in predating the Challenger reference of December, 1997. There is mention of the We the People Foundation being founded in April of 1997 and an initiative being drafted, but there is no date as to when this was drafted.

8. As per Applicant’s claim that improper rejections were made with respect to claim 11. Applicant is arguing rejections to claim 11 that are not present in the office action. As written in

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the office action, claim 11 is rejection based on claim 10. As for Applicant's second argument to improper rejection, Examiner apologizes for a typing/proofreading error wherein claim 10 was referred to when it should have been claim 11. The rejection of claim 11 is based on claim 10 and the added feature of claim 11, the composing of the poll survey on an individual user station is rejected using the Chisholm reference. Examiner thanks applicant for bringing this matter to her attention.

9. Arguments regarding rejections under 35 USC 102(e) to claims 1, 4-7, 10, 12, 14, 15 and 34 are not persuasive. In regard to the argument that Challenger does not teach a wide area network, Examiner respectfully disagrees. In column 4 lines 44-58 describe the method and system wherein the processing systems are connected over the Internet. This is also evident in figures 1C and 7 wherein the Internet is used for transmitting data associated with the system.

10. Also in regard to claim 10, Applicant asserts that Challenger does not teach the use of a poll survey and alleges there is a difference between a ballot and a poll, but does not clarify.

Applicant admits that the Challenger reference teaches a ballot system. According to Merriam Webster's Collegiate Dictionary, Tenth Edition, to ballot is to vote or poll, or it is the action or system of secret voting; poll is to receive and record the votes of or to request ...a vote.

Therefore, if Challenger teaches a ballot system, the reference inherently teaches a polling survey since both are concerned with collecting votes.

11. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., in the arguments regarding claim 10, applicant argues petitions and digitally signing petitions) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

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limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

12. In response to applicant's arguments regarding rejections to claims 13 and 21-25, Examiner respectfully disagrees. Applicant asserts that a reference for describing the level of ordinary skill must be relied upon to show obviousness. However, with a 35 USC 103 rejection, that is exactly what is done. The Challenger reference was used for the general teaching of compiling demographic information. Then an obvious rejection was used to show that conveying that information in a report form is old and well known in the art and therefore would have been obvious to do so.

13. In response to Applicants' argument that Challenger does not teach the association of each response to a given user, Examiner disagrees. As pointed out in the office action, col. 7, lines 54 - 57; col. 8, lines 1 - 9 and Figure 7 of Challenger show that the user's ID is associated with the users encrypted ballot.

14. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In the instant case, the use of biometrics in a voting or polling system is a well-known tool as evidenced in McClure. Examiner's motivation to combine the Challenger reference with McClure was based on the fact that both references teach a system for

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voting or polling that includes secure data transfer and authentication of users. Challenger teaches using encryption to securely identify a user of the system while McClure also uses secure identification using biometrics. The use of these secure identifying features are used in both the Challenger reference as well as the McClure reference.

15. In light of the response to arguments above, the prior rejections to claims 1-34 are upheld and are reproduced below for convenience.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 4-7, 10, 12, 14, 15 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Challenger et al., U.S. Patent Number 6,081,793.

As per claim 1, Challener et al. disclose a method of conducting decentralized elections over a wide area network having generally unrestricted access thereto, comprising: electronically transmitting a ballot across the wide area network to a plurality of individual user stations on the wide area network (col. 8, lines 7 - 9; Figure 7); receiving a digital signature and an associated ballot selection from a voter at each of a plurality of the individual user stations (col. 8, lines 10 -18; Figure 7); electronically transmitting the ballot selection and digital signature over the wide area network to a central server on the wide area network (col. 8, lines 10 - 18; Figure 7); verifying the digital signature at the central server (col. 8, lines 19 - 27; Figure 7); and tabulating the ballot selection after verifying the digital signature (col. 8, lines 46 - 52; Figure 7).

As per claim 4, Challener et al. disclose the method of claim 1, further comprising associating the digital signature with demographic information on the voter (col. 7, lines 54 - 57).

As per claim 5, Challener et al. disclose the method of claim 4, wherein the demographic information is stored on a server remote from the individual user station (col. 8, lines 26 - 30).

As per claim 6, Challener et al. disclose the method of claim 1, further comprising providing personal information in a user-modifiable demographic profiler on the individual user station (col. 6, lines 33 - 36; Figure 4).

As per claim 7, Challener et al. disclose the method of claim 6, further comprising associating the ballot selection with the personal information in the demographic profiler and electronically transmitting the personal information with the ballot selection over the wide area network to the central server (col. 6, lines 33 - 45; Figure 4).



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As per claim 10, Challener et al. disclose the method of claim 1, further comprising: composing a poll survey (col. 8, lines 7 - 9; Figure 7); transmitting the poll survey over the wide area network to the plurality of individual user stations (col. 8, lines 7 - 9; Figure 7); receiving a completed survey from a user at each of a plurality of the individual user stations (col. 8, lines 10 - 18; Figure 7); electronically transmitting the completed survey over the wide-area network to a central server on the wide area network col. 8, lines 10 - 18; Figure 7); and tabulating the completed poll survey (col. 8, lines 46 - 52; Figure 7).

As per claim 12, Challener et al. disclose the method of claim 10, further comprising: providing personal information in a user-modifiable demographic profiler on the individual user station (col. 6, lines 33 - 36; Figure 4); associating the personal information to the completed survey in a double blind manner (col. 10, lines 51 - 65); and electronically transmitting the personal information with the completed survey over the wide area network (col. 6, lines 33 - 45; col. 8, lines 10 - 18; Figures 4 and 7).

As per claim 14, Challener et al. disclose the method of claim 1, further comprising encrypting the digital signature and the associated ballot selection prior to electronically transmitting (col. 8, lines 11 - 18), and decrypting the digital signature and the associated ballot selection prior to verifying the digital signature (col. 8, lines 45 - 48).

As per claim 15, Challener et al. disclose the method of claim 1, further comprising: composing a petition (col. 8, lines 7 - 9; Figure 7); electronically transmitting the petition across the wide area network to the plurality of individual user stations on the wide area network (col. 8, lines 7 - 9; Figure 7); receiving a digital signature associated with the petition from a voter at

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each of a plurality of the individual user stations (col. 8, lines 10 -18; Figure 7); electronically transmitting the digital signature over the wide area network to a central server on the wide area network (col. 8, lines 10 - 18; Figure 7); verifying the digital signature at the central server (col. 8, lines 19 - 27; Figure 7); and tabulating the digital signature associated with the petition after verifying the digital signature (col. 8, lines 46 - 52; Figure 7).

As per claim 34, Challener et al. teaches the method of claim 10, wherein individuals and/or groups may work alone or together in conducting polls, petition drives, town hall sessions, and/or elections using the digital network (col. 1, lines 55-60 – the electronic voting system utilizes the internet for use at polling places; col. 4, lines 44-58; col. 5, lines 35-50; Figures 1A, 1C, and 7).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Challener et al. (U.S. 6,081,793) as applied to claim 6 above.

As per claim 13, Challener et al. do not expressly disclose the method of claim 6, further comprising compiling demographic reports on the poll results using the personal information. However, at the time the invention was made it would have been obvious to a person of ordinary

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skill in the art to compile demographic reports on the poll results using the personal information because doing so is a natural progression in the art of conducting polls. It is well known in the polling industry to compile results and statistics based on the relationship between the poll results and the personal information obtained. Furthermore, the invention as disclosed by Challener et al. associate the poll results with the personal information of the voters (abstract; col. 6, lines 33 - 36; col. 8, lines 27 - 30 and 50 - 52; Figures 4 and 7).

As per claim 21, Challener et al. disclose a method of conducting a poll over a wide area network, the method comprising: electronically transmitting a polling survey to a plurality of users connected to the wide area network (col. 8, lines 7 - 9; Figure 7); receiving a plurality of electronic responses to the polling survey from the users (col. 8, lines 15 - 18; Figure 7); associating each response with personal information regarding a corresponding user, the personal information excluding the identity of the corresponding user (col. 7, lines 54 - 57; col. 8, lines 1 - 9; Figure 7); and tabulating the responses (col. 8, lines 46 - 52; Figure 7). Challener et al. do not expressly disclose generating a demographic report relating the responses to the personal information. However, at the time the invention was made it would have been obvious to a person of ordinary skill in the art to compile demographic reports on the poll results using the personal information because doing so is a natural progression in the art of conducting polls. It is well known in the polling industry to compile results and statistics based on the relationship between the poll results and the personal information obtained. Furthermore, the invention as disclosed by Challener et al. associate the poll results with the personal information of the voters (abstract; col. 6, lines 33 - 36; col. 8, lines 27 - 30 and 50 - 52; Figures 4 and 7).

As per claim 22, Challener et al. disclose the method of claim 21, wherein the personal information is derived from a pre-existing database and associating each response comprises

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automatically associating the personal information with the corresponding response (col. 6, lines 32 - 35).

As per claim 23, Challener et al. disclose the method of claim 22, wherein the pre-existing database resides on an individual user station on the wide area network and is at least partially modifiable by the user (col. 4, lines 59 - 67; Figures 1 A, 1 C and 4).

As per claim 24, Challener et al. disclose the method of claim 22, wherein the pre-existing database resides on a central server on the wide area network (col. 5, lines 36 - 50; Figures 1 A, 1 C and 4); and associating each response comprises associating identifying information regarding user with the response at an individual user station on the wide area network (col. 8, lines 1 - 13), transmitting the response to the central server (col. 8, lines 15 - 18), and associating the response with the personal information of the corresponding user at the central server (col. 8, lines 27 - 30).

As per claim 25, Challener et al. disclose the method of claim 24, wherein the identifying information comprises a digital signature (col. 6, lines 51 - 54; col. 7, lines 53 - 58).

5. Claims 2, 3, 16, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Challener et al. (U.S. 6,081,793) as applied to claim 1 above, and further in view of Miyagawa et al. (U.S. 5,497,318).

As per claim 2, Challener et al. disclose the method of claim 1 as applied above. Challener et al. do not expressly disclose the method of claim 1, further comprising providing information relevant to choices on the ballot on remote servers on the wide area network; and

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providing the voter with access to the relevant information from the individual user station.

Miyagawa et al. disclose the method of claim 1, further comprising: providing information relevant to choices on the ballot on remote servers on the wide area network (col. 7, lines 6 - 8; col. 13, lines 39 - 48; col. 16, lines 25 - 30 and lines 35 - 45; Figures 20C, 26, and 28A); and providing the voter with access to the relevant information from the individual user station (col. 7, lines 6 - 8; col. 13, lines 39 - 48; col. 16, lines 25 - 30 and lines 35 - 45; Figures 20C, 26, 27, and 28A). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to provide information relevant to choices on the ballot on remote servers on the wide area network because doing so provides voters with a user-friendly interface that allows them to quickly and easily retrieve information pertaining to the issues or people being voted upon (Miyagawa, col. 1, lines 38 - 41).

As per claim 3, Challener et al. and Miyagawa et al. disclose the method of claim 2 as applied above. Challener et al. do not expressly disclose the method of claim 2, wherein providing the voter with access comprises providing a search tool for user defined searches of publicly accessible data across the wide area network. Miyagawa et al. disclose the method of claim 2, wherein providing the voter with access comprises providing a search tool for user-defined searches of publicly accessible data across the wide area network (col. 7, lines 6 - 8; col. 13, lines 39 - 48; col. 16, lines 25 - 30 and lines 35 - 45; Figures 20C, 26, and 28A). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to provide a search tool for user-defined searches because doing so provides voters with a user-friendly interface that allows them to quickly and easily retrieve information pertaining to the issues or people being voted upon (Miyagawa, col. 1, lines 38 - 41 ).

As per claim 16, Challener et al. disclose a method of voting using a wide area network including at least one central server and a plurality of geographically remote individual user stations, comprising: placing a ballot listing candidate/proposition choices on the wide area network (col. 8, lines 7 - 9; Figure 7); displaying the ballot to a voter at the individual user stations on the wide area network (col. 8, lines 7 - 11; Figure 7); receiving, at each individual user station, selections made by the voter in completing the ballot of candidates and propositions (col. 8, lines 7 - 11; Figure 7); receiving, at each individual user station, a digital signature from the voter (col. 7, lines 53 - 57; Figure 7); associating the digital signature with the completed ballot selections (col. 8, lines 1 - 11; Figure 7); transmitting the ballot selections and signature at the central processor server (col. 8, lines 13 - 18; Figure 7); verifying the digital signature at the central processor server, including confirming a voting status (col. 8, lines 19 - 27; Figure 7); recording the verified received ballot selections (col. 8, lines 28 - 30; Figure 7); and tabulating the verified received ballot selections with other verified received ballot selections from other voters at the central processor server (col. 8, lines 46 - 52; Figure 7).

Challener et al. do not expressly disclose linking the voter to candidate/proposition information stored on remote servers in the wide area network and allowing the voter at each individual user station to review the candidate/proposition prior to completing the ballot; and publishing the tabulated selections. Miyagawa et al. disclose linking the voter to candidate/proposition information stored on remote servers in the wide area network and allowing the voter at each individual user station to review the candidate/proposition prior to completing the ballot (col. 7, lines 6 - 8; col. 13, lines 39 - 48; col. 16, lines 25 - 30, 35 - 45, and lines 51 - 56; Figures 20C, 26, 27, and 28A); and publishing the tabulated selections (col. 32, lines 45 - 53; col. 33, lines 16

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- 18; Figures 76 and 79). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to (1) link the voter to candidate/proposition information and allow the voter at each individual user station to review the candidate/proposition prior to completing the ballot and (2) publish the tabulated selections because doing so provides a user-friendly interface where voters can quickly and easily view information pertinent to the vote (Miyagawa, col. 1, lines 38 - 41) and administrators can quickly and easily view vote results.

As per claim 17, Challener et al. disclose the method of claim 16, further comprising transmitting a poll to the voter at each of the plurality of individual user stations (col. 8, lines 7 - 9; Figure 7).

As per claim 19, Challener et al. disclose the method of claim 17, further comprising transmitting a petition to the voter at each of the plurality of individual user stations (col. 8, lines 7 - 9; Figure 7).

6. Claims 8, 26, 28 - 30, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Challener et al. (U.S. 6,081,793) as applied to claims 1 and 25 above, and further in view of McClure et al. (U.S. 6,250,548).

As per claim 8, Challener et al. disclose the method of claim 1 as applied above. Challener et al. do not expressly disclose the method of claim 1, wherein receiving the digital signature comprises scanning a biometric feature of the voter at the individual user station and digitizing the scanned characteristics of the biometric feature. McClure et al. disclose the method of claim 1, wherein receiving the digital signature comprises scanning a biometric feature of the voter at the individual user station and digitizing the scanned characteristics of the biometric

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feature (col. 36, lines 35 - 39). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have the digital signature comprise scanning a biometric feature of the voter because doing so enhances security and ensures that an eligible and legitimate person is voting.

As per claim 26, Challener et al. disclose the method of claim 25 as applied above. Challener et al. do not expressly disclose the method of claim 25, wherein the digital signature comprises biometric information. McClure et al. disclose the method of claim 25, wherein the digital signature comprises biometric information (col. 36, lines 35 - 39). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have the digital signature comprise biometric information because doing so enhances security and ensures that an eligible and legitimate person is voting.

As per claim 28, Challener et al. disclose a system for decentralizing balloting, comprising: at least one central server (col. 3, lines 39 - 43; Figure 1 C); a plurality of user stations remote from and in communication with the central server across a wide area network (Figure 1 C); a ballot generator transmitting ballots to each of the user stations (col. 8, lines 2 - 9); a poll generator transmitting polls to selectable user stations (col. 8, lines 2 - 9 - the invention as disclosed by Challener et al. teaches the same ballot generation and distribution and response reception despite the type of ballot being used. The overall process of the invention as disclosed by Challener et al. is not affected by the type of ballot being used and therefore can apply to other inquiries (i.e., ballot, poll, etc.) that seek a response from a user); an associator on each of the user stations, the associator associating ballot selections with a digital signature and



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associating poll responses with the digital signature (col. 7, lines 53 - 60; col. 8, lines 11 - 30); a verifier on the central server receiving digital signatures, associated ballot selections and associated poll responses, the verifier verifying the validity of the associated ballot selections and associated poll responses (col. 7, line 53 - col. 8, line 30); and a tabulator compiling ballot selections and poll responses from the plurality of user stations (col. 8, lines 46 - 52). Challener et al. do not expressly disclose each of the user stations including a biometric digitizing device. McClure et al. disclose each of the user stations including a biometric digitizing device (col. 36, lines 35 - 39). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have each of the user stations including a biometric digitizing device because doing so enhances security and ensures that an eligible and legitimate person is voting.

As per claim 29, Challener et al. disclose the system of claim 28, further comprising a demographic database on the central server, associating the associated ballot selections and the associated poll responses with demographic information by way of the digital signatures (col. 7, line 53 - col. 8, line 30; Figures 1 A, 1 C and 4).

As per claim 30, Challener et al. disclose the system of claim 28, wherein the wide area network comprises the Internet<sup>™</sup> (col. 1, lines 55 - 60; Figure 1 C).

As per claim 32, Challener et al. disclose the system of claim 28, further comprising a demographic profiler on each user station, the demographic profiler storing personal information of a user (col. 6, lines 33 - 45; Figure 4).

As per claim 33, Challener et al. disclose the system of claim 32, wherein the demographic profiler automatically associates the personal information with outgoing data without associating identifying information (col. 6, lines 33 - 45; col. 8, lines 1 - 4; Figure 4).

7. Claims 9, 11 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Challener et al. (U.S. 6,081,793) as applied to claims 1 and 21 above, and further in view of Chisholm (U.S. 5,400,248).

As per claim 9, Challener et al. disclose the method of claim 1 as applied above. Challener et al. do not expressly disclose the method of claim 1, further comprising providing the voter with results of tabulation of a plurality of previously conducted ballot selections. Chisholm discloses the method of claim 1, further comprising providing the voter with results of tabulation of a plurality of previously conducted ballot selections (col. 6, lines 46 - 50). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to provide the voter with results of tabulation because doing so allows the voter to view the results after which the voter can make a decision on whether or not to modify his/her vote until a desired result is achieved (Chisholm, col. 6, lines 43 - 44).

As per claim 11, Challener et al. disclose the method of claim 10 as applied above. Challener et al. do not expressly disclose the method of claim 10, wherein composing the poll survey is conducted on the individual user station. Chisholm discloses the method of claim 10, wherein composing the poll survey is conducted on the individual user station (col. 5, lines 39 - 47; The invention as disclosed by Chisholm allows voters to comment on the poll survey before it is distributed for voting.). At the time the invention was made, it would have been obvious to a

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person of ordinary skill in the art to have the poll survey be conducted on the individual user station because doing so allows voters to have input on the contents of the survey making the survey a collaborative effort (Chisholm, col. 6, lines 46 - 50).

As per claim 27, Challenger et al. disclose the method of claim 21 as applied above. Challenger et al. do not expressly disclose the method of claim 21, wherein generating the poll is conducted on an individual user station on the wide area network. Chisholm discloses the method of claim 21, wherein generating the poll is conducted on an individual user station on the wide area network (col. 5, lines 39 - 47; The invention as disclosed by Chisholm allows voters to comment on the poll before it is distributed for voting.). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have the poll be conducted on the individual user station because doing so allows voters to have input on the contents of the poll making the poll a collaborative effort (Chisholm, col. 6, lines 46 - 50).

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challenger et al. (U.S. 6,081,793) and Miyagawa et al. (U.S. 5,497,318) as applied to claim 17 above, and further in view of Chisholm (U.S. 5,400,248).

As per claim 18, Challenger et al. and Miyagawa et al. do not expressly disclose the method of claim 17, wherein the poll is generated on one of the individual user stations. Chisholm discloses the method of claim 17, wherein the poll is generated on one of the individual user stations (col. 5, lines 39 - 47; The invention as disclosed by Chisholm allows voters to comment on the poll survey before it is distributed for voting.). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have

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the poll survey be conducted on the individual user station because doing so allows voters to have input on the contents of the survey making the survey a collaborative effort (Chisholm, col. 6, lines 46 - 50).

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challener et al. (U.S. 6,081,793) and Miyagawa et al. (U.S. 5,497,318) as applied to claim 19 above, and further in view of McClure et al. (U.S. 6,250,548).

As per claim 20, Challener et al. and Miyagawa et al. do not expressly disclose the method of claim 19, wherein receiving a digital signature comprises receiving biometric information, the biometric information associated with the voter in a demographic database stored on the central server. McClure et al. disclose the method of claim 19, wherein receiving a digital signature comprises receiving biometric information, the biometric information associated with the voter in a demographic database stored on the central server (col. 36, lines 35 - 58). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have a digital signature comprise receiving biometric information, the biometric information associated with the voter in a demographic database stored on the central server because doing so enhances security and ensures that an eligible and legitimate person is voting.

10. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challener et al. (U.S. 6,081,793) and McClure et al. (U.S. 6,250,548) as applied to claim 28 above, and further in view of Chisholm (U.S. 5,400,248).

As per claim 31, Challener et al. and McClure et al. do not expressly disclose the system of claim 28, wherein the poll generator resides on each of the user stations. Chisholm discloses

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wherein the poll generator resides on each of the user stations (col. 5, lines 39 - 47; The invention as disclosed by Chisholm allows voters to comment on the poll survey before it is distributed for voting.). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have the poll survey be conducted on the individual user station because doing so allows voters to have input on the contents of the survey making the survey a collaborative effort (Chisholm, col. 6, lines 46 - 50).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Merriam-Webster's Collegiate Dictionary, Tenth Edition – definition of poll and ballot

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R Stimpak whose telephone number is 703-305-4566.

The examiner can normally be reached on M-F 8am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Js  
July 20, 2004



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